

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



May 17, 2005

Regulation Package #0305-05

CDSS MANUAL LETTER NO. EAS-05-02

TO: HOLDERS OF THE EAS MANUAL

Regulation Package #0305-05

Effective 4/22/05

Section 42-101

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Eligibilit_617.htm.

These regulations comply with the Judgment and Peremptory Writ of Mandate issued on July 7, 2004, in the Fry v. Saenz lawsuit. The California Department of Social Services (CDSS) issued All County Letters (ACL 04-33 and ACL 04-50) to provide County Welfare Departments with instructions for identifying otherwise eligible 18-year-olds for whom aid is to be provided under the provisions of the Fry v. Saenz writ.

Welfare and Institutions Code Section 11253 and the Manual of Policies and Procedures (MPP) Division 42, Chapter 42-101, Section 42-101.2 prohibit the granting of CalWORKs cash aid to a child who has reached 18, unless the child can reasonably be expected to graduate before age 19. The lawsuit claimed that this provision violates the American with Disabilities Act because it discriminates against recipients who would not graduate before age 19 due to a disability. The CDSS is proposing the adoption of these regulations to comply with the court order.

In proposed language, the regulations specify that, otherwise eligible 18-year-olds who attend school full-time and are considered to have a disability under the criteria specified shall continue to be eligible for CalWORKs benefits until they graduate, turn 19, or stop attending school full-time, whichever occurs first.

These regulations will be considered at the Department's public hearing held on July 13, 2005.

FILING INSTRUCTIONS

The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing EAS changes was EAS-05-01.

Page(s)Replace(s)

162 through 163

Pages 162 and 163

Attachments

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DIVISION 42 NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY

CHAPTER 42-100 AGE

42-101 AGE REQUIREMENT

42-101

- .1 A child meets the age requirement for CalWORKs eligibility until his/her 18th birthday. A child 18 years of age may be eligible if the requirements in Section 42-101.2 are met.
- .2 A child 18 years of age is eligible for CalWORKs only if he/she is enrolled as a full-time student (as defined by the school) in high school or, if he/she has not completed high school, in a vocational or technical training program which cannot result in a college degree, provided he/she can reasonably be expected to complete either program before reaching age 19.
 - .21 The requirements of this section cannot be met by correspondence course work.
 - .22 A student enrolled in a full-time program shall be considered attending on a full-time basis until enrollment is terminated by the school or the student.
 - .23 In addition, for a child in receipt of Kin-GAP, the child and placement agency must sign a mutual agreement (KG 1) prior to or within the month the child reaches age 18.
- .3 Children who currently receive or have in the past received SSI/SSP benefits shall be considered disabled. Parent/caretaker relatives shall cooperate with the CWDs to obtain verification of receipt of SSI/SSP benefits. Past or present 18-year-old recipients of SSI/SSP benefits who attend school full-time shall be considered an eligible child in their parent/caretaker relative's AU and aid shall continue for the otherwise eligible parent/caretaker relative until the child completes the program, turns 19 or stops attending school full-time, whichever occurs first.
 - .31 Verification may include a copy of a Social Security determination letter. To determine if the child who is turning 18-years-old is attending school full-time, verification shall be obtained in accordance with MPP Section 40-105.5 (b).
- .4 Children who currently receive or have in the past received services through a Regional Center Program pursuant to the Lanterman Act shall be considered disabled. Parent/caretaker relatives shall cooperate with the CWD to obtain verification of receipt of services. Otherwise eligible 18-year-olds who attend school full-time and are considered disabled under this criterion shall be eligible for CalWORKs benefits until they complete the program, turn 19 or stop attending school full-time, whichever occurs first.
 - .41 Verification may include a statement from the Regional Center stating that the child is currently receiving or has in the past received services. To determine if the child who is turning 18-years-old is attending school full-time, verification shall be obtained in accordance with MPP Section 40-105.5(b).

42-101	AGE REQUIREMENT (Continued)	42-101
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- .5 Children who currently receive services at school in accordance with their Individual Education Plan (IEP) or receive services under/pursuant to Section 504 of the Rehabilitation Act (e.g., a Section 504 Plan or Section 504 Accommodation Plan) or have received such services in the past, shall be considered to be disabled. Parent/caretaker relatives shall cooperate with the CWD to obtain verification of receipt of services. Otherwise eligible 18-year-olds who attend school full-time and are considered disabled under this criterion shall be eligible for CalWORKs benefits until they complete the program, turn 19 or stop attending school full-time, whichever occurs first.
- .51 Verification may include a copy of the child's IEP or Section 504 Plan/Section 504 Accommodation Plan (MPP 40-105.5 (b)). To determine if the child who is turning 18 years-old is attending school full-time, verification shall be obtained in accordance with MPP Section 40-105.5 (b).
- .6 When a child's disability cannot be verified by the criteria described above, the parent/caretaker relative can provide independent verification or authorize the CWD to obtain documentation from a health care provider or a trained, qualified learning disabilities evaluation professional of a current or past disability. Otherwise eligible 18-year-olds who attend school full-time and are considered disabled under this criterion shall be eligible for CalWORKs benefits until they complete the program, turn 19 or stop attending school full-time, whichever occurs first. To determine if the child who is turning 18-years-old is attending school full-time, verification shall be obtained in accordance with MPP Section 40-105.5(b).

NOTE: Authority cited: Sections 10553, 10554, and 11369, Welfare and Institutions Code. Reference: Sections 10063(a), and 11253, Welfare and Institutions Code, Fry v. Saenz 98 Cal.App.4th256, and Fry v. Saenz, (Sacramento County Superior Court), Case No. 00CS01350, Judgment and Peremptory Writ of Mandate, July 7, 2004.

42-111	EVIDENCE OF AGE	42-111
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- .1 Determination of a child's age shall be based on acceptable evidence, including, but not limited to the following, which the county determines to be substantive and genuine:
 - a. Birth certificate or hospital's, physician's or midwife's birth record.
 - b. Baptismal certificate or church record of baptism.
 - c. Confirmation papers or church record of confirmation.
 - d. School records.
 - e. Indian agency records (if applicable).
 - f. Immigration papers or governmental record of immigration.
 - g. Naturalization papers or governmental record of naturalization.
 - h. Adoption decree.
 - i. Passport.
 - j. State of Federal census record.
 - k. The affidavit of an adult if it is based on his personal knowledge of facts which would determine the probable age of the applicant and is not merely a statement of belief based on applicant's personal appearance. Such affidavit must contain statements of the circumstances upon which the affiant's knowledge is based.
 - l. Entries in a family Bible or other genealogical record or memorandum of such applicant.
- .2 The EW shall record in the case record the documentation used to establish age, the pertinent evidence contained in such document(s) and the date he reviewed the documentation.

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